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WRITTEN DECISION FOR OPPOSITION ACTION

Taiwan Intellectual Property Office

The notice is given to: Nitto Denko Corporation
(Patent attorney: Mr. I-Chu Lin)

The notice is mailed to: 9F, 112 Section 2, Chang-An East Road, Taipei

Date: December 10, 2003

Notice No. : 09221251910

- (1) Application No. of the patent application being opposed:
090125188P01
- (2) The title of the patent application being opposed: Method for
Manufacturing Polarizer and Liquid Crystal Display Device
- (3) The applicant of the patent application being opposed: Nitto Denko
Corporation (address: Japan)
- (4) Patent attorney: Mr. I-Chu Lin (address: 9F, 112 Section 2, Chang-An
East Road, Taipei)
- (5) Opposition petitioner: Mr. Yun-Shu Xie (address: 10F-1, 23 Section 1,
Chang-An East Road, Taipei)
- (6) Patent attorney: Mr. Zhi-Yang Haung (address: 10F-1, 23 Section 1,
Chang-An East Road, Taipei)
- (7) Opposition application date: November 27, 2002
- (8) Examiner: Tong-Min He
- (9) Decision: The opposition action is sustained after examination and the
application at issue is deemed unpatentable.

(10) Reason:

1. The Written Decision No. 09220855990 of August 26, 2003 was revoked and the
opposition was re-examined under Taiwan Appeal Law, Article 58, Paragraph 2.
2. The filing date of the application at issue entitled "Method for Manufacturing
Polarizer and Liquid Crystal Display Device" is October 12, 2001 and the

application was allowed on August 2, 2002. The claims of the application at issue were amended by the applicant on March 24, 2003. The amendment was allowed and published. The opposition was examined based on the amended content.

3. Claim 1 of the application at issue claims a method for manufacturing a polarizer with a transmissivity of more than 35 % and a polarization degree of more than 90% by bonding protective layers onto one or both sides of a polarizing element and surface roughness in a direction perpendicular to the extension shaft orientations of the polarizer being less than 0.04 μm based on the center line average roughness, the water content of the polarizing element being kept in a range of 5%~30% while a protective layer is bonded on one or both surfaces of the polarizer, provided that a method for measuring the water content of the polarizing element is based on the equation, the water content (%) of the polarizing element = $[(A-B)/B] \times 100$, using the polarizing element's weight before bonding (A) and the weight after keeping the polarizing element in a drier at 120°C for 7 hours (B).
Claim 10 claims a liquid crystal display device, wherein at least one side of a liquid crystal cell is equipped with a polarizer formed by the manufacturing method of Claim 1.
4. Citation 2 in opposition stage is a polarizer product catalog printed by Optimax Technology Corporation. Citation 3 in opposition stage shows a sample in citation 2. Citation 4 in opposition stage shows that Optimax Technology Corporation announced the product on the "Product Development Achievements" on their web site. Citation 5 in opposition stage is a polarizer catalog published by Sanritz Corporation in May 2001. Citation 6 in opposition stage shows a sample in citation 5. The results of an assay of the water content of the polarizing elements in citations 3 and 6, conducted by the Industrial Technology Research Institute, are shown in citation 7 in opposition stage. Citation 8 in opposition stage is JP 59-159109A published on September 8, 1984. Attachment 5 cited in appeal stage is a measurement standard specification for JIS B 0601-1994 surface roughness. Attachment 6 cited in appeal stage is a test report of surface roughness of product UHL-C2-5618-AGA1 manufactured by Optimax Technology Corporation. The test is conducted by the Industrial Technology Research Institute. Attachment 7 cited in appeal stage is a test report of surface roughness of product UHL-C2-5618 manufactured by Sanritz Corporation. The test is conducted by the Industrial Technology Research Institute. Based on the above citations in opposition stage, the reasons for opposition declares that the application at issue does violate the stipulations of Clause 1 of Paragraph 1 and Paragraph 2 of Article 20 of the Patent Law.
5. The HLC2-5618S transmissive polarizer disclosed in the product catalog of

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citation 2 is shown in citation 3. The HLC2-5618S transmissive polarizer disclosed in the product catalog of citation 2 is shown in citation 3. The web page of citation 4 shows the product UHLC2-5618AGAISU announced in 2000. However, the above two products are not same. Therefore, the relationship of citations 2, 3 and 4 fails to prove that the sample of citation 3 had been put to public use before the application at issue was filed for a patent.

6. Citation 6 shows the UHLC2-5618 polarizer in the catalog of citation 5. The polarizer consists of two protective layers (TAC) with a polarizing element (PVA) interposed between the layers. According to the result of the assay of citation 7, the water content of the sample is $10.9 \pm 0.2\%$.
7. Citation 8 discloses a polarizing film having water content adjusted to 8% or below. High polymer protective films are provided on both surfaces of the polarizing film. Further, the reference example and the comparison example disclose a polarizing film with water content of 9% and a polarizing film with water content of 5%, respectively.
8. Citation 6 and citation 8 in opposition stage were cited to question about the water content of the application at issue. However, Claim 1 of the application at issue claims "surface roughness in a direction perpendicular to the extension shaft orientations of the polarizer being less than $0.04 \mu\text{m}$ based on the center line average roughness." This characteristic is not disclosed by the citations. Therefore, the citations in opposition stage fail to prove that the application at issue lacks novelty. Further, the characteristic has the effect that strips of the polarizer can not be easily visually found. The characteristic can not be easily thought up and accomplished from the citations. Therefore, the citations fail to prove that the application lacks improvement.
9. Claim 1 of the application at issue discloses a polarizer. A protective layer is bonded on one or both surfaces of the polarizer. The polarizer has the characteristic "with a transmissivity of more than 35 % and a polarization degree of more than 90% by bonding protective layers onto one or both sides of a polarizing element and surface roughness in a direction perpendicular to the extension shaft orientations of the polarizer being less than $0.04 \mu\text{m}$ based on the center line average roughness, the water content of the polarizing element being kept in a range of 5%~30%." The polarizer disclosed on page 2 of the catalog of citation 5 consists of two protective layers (TAC) with a polarizing element (PVA) interposed between the layers. UHLC2-5618 polarizer disclosed on page 6 has transmissivity of 44.29 % and a polarization degree of 99.975%. According to the result of the assay of citation 7, the water content of the polarizer is $10.9 \pm 0.2\%$. According to the test report of attachment 7 cited in appeal stage, the surface roughness of the

polarizer is 0.0010 μm . Therefore, the polarizer of the application at issue was disclosed by citation 5, citation 7 and attachment 7 before the application at issue was filed for a patent.

10. The water content of the polarizing element of the application at issue is kept in a range of 5%~30%. The measurement of the water content is made before bonding the protective layer onto the polarizing element. The water content of the polarizer disclosed in citation 7 is measured after bonding the protective layer onto the polarizer. The above two water contents can not be compared because of different base of measurement. Japan patent of Citation 8 disclosed water content of 8%, 9% or 5% of the polarizer, measured before bonding the protective layer onto the polarizer. Therefore, the polarizing element of the application at issue with water content of specific range utilizes conventional technology or knowledge known prior to applying for a patent, and can be easily accomplished by persons skilled in the art.

In view of the foregoing, the application at issue violates the stipulations of Paragraph 2 of Article 20 of the Patent Law.

- (11) In case of dissatisfaction with the decision, the party concerned may, within thirty days from the day following the date of receipt of the decision, institute an appeal with the Ministry of Economy Affairs by submitting a written appeal application and the duplicate thereof (including the attachment) together with the copy of the decision.

經濟部智慧財產局專利異議審定書

受文者：日東電工股份有限公司（代理人：林鑑珠先生）

地址：臺北市中山區長安東路二段一一二號九樓

發文日期：中華民國九十二年十二月十日
發文字號：（九二）智專三（一）02017字第
〇九二二一二五一九一〇號

Tep-26084

- 一、被異議案號數：〇九〇一二五一八八PO一
- 二、被異議案名稱：偏光板之製造方法及液晶顯示裝置
- 三、被異議人：

名稱：日東電工股份有限公司

地址：日本

四、專利代理人：

姓名：林鑑珠先生

地址：臺北市中山區長安東路二段一一二號九樓

五、異議人：

姓名：謝昀樹先生

地址：臺北市中山區長安東路一段二十三號十樓之一

六、專利代理人：

法定 〇月〇日



姓名：黃志揚 先生

地址：臺北市中山區長安東路一段二十三號十樓之一

七、異議日期：九十一年十一月二十七日

八、審查委員姓名：何侗民 委員

九、審定主文：異議成立，應不予專利。

十、理由：

(一) 本案本局依訴願法第五十八條第二項之規定，自行撤銷原九十二年八月二十六日(九二)智專三(一)〇二〇一七字第〇九二二〇八五五九九〇號異議審定書並重為審查，合先敘明。

(二) 系爭案「偏光板之製造方法及液晶顯示裝置」申請日為九十年十月十二日，本局於九十二年八月二日審定准予專利；又系爭案申請人於九十二年三月二十四日提出申請專利範圍修正本並經核准公告在案，本異議案依該修正後之內容審查，合先敘明。

(三) 系爭案依其申請專利範圍第一項所述之偏光板之製造方法，其特徵在於，係用以製造一在偏光元件的單面或兩面貼合保護層而成之、與拉伸軸方向垂直方向之表面粗度依於中心線平均粗度為0.04μm以下、且透過率35%以上、偏光度90%以上之偏光板；與保護層貼合時的偏光元件的水分率為5%~30%（其中，偏光元件的水分率之測定方法，係經由貼合前的偏光元件重量(A)、與將該偏光元件置入120℃的乾燥機中七小時後的偏光元件重量(B)，以

：偏光元件的水分率(%) $\equiv [(A-B)/B] \times 100$ (求出)。另依申請專利範圍第十項所述之液晶顯示裝置，係於液晶單元之至少單側具備有前述製造方法中所述特徵之偏光板。(詳參系爭案申請專利範圍)

(四) 異議證據二為力特光電科技股份有限公司之偏光板產品目錄，證據三所指為證據二之樣品實物一份，證據四為力特光電「產品開發成果」之網頁，證據五為三立株式會社於二〇〇一年五月所公開之偏光板目錄，證據六所指為證據五之樣品實物一份，證據七為工業技術研究院有關證據三及證據六之含水率分析檢驗報告，證據八為於一九八四年九月八日公開之日本昭五九一—五九一〇九號專利案。又，訴願階段所提補強證據附件五為JIS B 0601-1994表面粗糙度之測量標準書，附件六為工研院對力特光電產品UHL-C2-5618-AGAI所作之表面粗糙度測試報告，附件七為工研院對三立株式會社產品UHL-C2-5618所作之表面粗糙度測試報告。異議理由主要係據前揭證據主張系爭案有違核准時應適用之專利法第二十條第一項第一款及第二項之規定云云。

(五) 證據三之樣品，所指係證據二產品目錄中品名為HLC2-5618S之透過型偏光板。證據四之網頁中，則顯示於二〇〇〇年第四季有一種品名為UHL-C2-5618AGAI SU之產品。然以上兩種品名並非全然相同，故證據二、三、四關聯性不足而難以證明證據三之樣品於系爭案申請日前已公開使用。

(六) 證據六之樣品，所指係證據五目錄中品名為HLC2-5618之偏光板，具有兩保護層(TAC)之

間夾有一偏光元件(PVA)之結構。由證據七之檢驗報告，該樣品之含水率為 $10.9 \pm 0.2\%$ 。

(七)證據八，揭示具有偏光膜之含水率調整到 ∞ 以下的狀態，且該偏光膜的兩面貼上高分子化合物膜護層之結構。另由該案參考例及比較例，分別揭示有含水率為 9% 或 5% 之偏光膜。

(八)異議理由據證據六之樣品及證據八之引證案，質疑系爭案之水分率。然系爭案修正後之前述申請專利範圍，尚包含有「與拉伸軸方向垂直方向之表面粗度依中心線平均度為 $0.04\mu\text{m}$ 以下」等未為異議證據提及之特徵，故該等證據尚不足證明系爭案不具新穎性。另因該一構造具有目視較為不易發現到偏光板條紋之功效且非為就諸證據可輕易思及完成者，故亦尚難稱系爭案不具進步性。

(九)系爭案修正後申請專利範圍所述使其於一偏光元件的單面或兩面貼合保護層而成之偏光板，具有「與拉伸軸方向垂直方向之表面粗度依於中心線平均粗度為 $0.04\mu\text{m}$ 以下、透過率 35% 以上、偏光度 90% 以上、且與保護層貼合時的偏光元件的水分率為 $5\% \sim 30\%$ 」之特徵；由異議證據五目錄第二頁所示之偏光板，具有兩保護層(TAC)之間夾有一偏光元件(PVA)之結構，而由第六頁所示之品名為VHLC2-5618之偏光板，其透過率為 44.29% ，偏光度為 99.975% 。另由異議證據七之工業技術研究院有關該偏光板之分析檢驗報告，其含水率為 $10.9 \pm 0.2\%$ 。再由訴願附件七之工業技術研究院有關該偏光板之測試報告，其粗糙度平均值為 $0.0010\mu\text{m}$ 。顯見系爭案前述特徵之偏光板，於申請前多為證據五、七、訴願附件七所揭露。

(十)又其偏光元件的水分率 $5\% \sim 30\%$ ，係與保護層貼合前所測定，與前述異議證據七貼合有保

護層之偏光板所測得之結果基礎不同而無從比較；然由異議證據八之日本專利案，早已揭示於貼合保護層之前，具有偏光膜之含水率為8%、9%或5%之記載。系爭案前述特定水分率範圍之偏光元件，因而顯為運用申請前既有之技術或知識，而為熟習該項技術者所能輕易完成者。

據上論結，系爭案違反專利法第二十條第二項之規定，爰審定如主文。

十一、如有不服，得於本處分書送達之次日起三十日內備具訴願書正、副本（均含附件），並檢附本處分書影本經由本局向經濟部提起訴願。

局長 蔡 練 生

依照分層負責規定
授權單位主管決行

正本

經濟部智慧財產局 函

受文者：日東電工股份有限公司（代理人：林鎰珠先生）

速別：速件

密等及解密條件：

發文日期：中華民國九十二年十二月十日

發文字號：（九二）智專三（一）02017字第0九二二二五一九二〇號

附件：重新審查之審定書

機關地址：台北市辛亥路二段一八五號十三樓

傳真：（〇二）二七三七二五一七

如有疑問請電洽（〇二）二七三八〇〇〇七分機一六五二

1227

3019 陳

說明：

主旨：第〇九〇一二五一八八PO一號案訴願人謝昀樹君不服本局九十二年八月二十六日（九二）智專三（一）〇二〇一七字第〇九二二〇八五五九九〇號異議審定提起訴願一案，本局依訴願法第五十八條第二項之規定，自行撤銷原處分並重新審查如附件，請核辦。

一、依經濟部訴願審議委員會九十二年十月二十四日經（九二）訴會字第B二—〇九二—〇九—〇九二—（二三〇七七）號函辦理。

二、檢附重新審查之審定書。

正本：日東電工股份有限公司（代理人：林鎰珠先生）

副本：

臺北市中山區長安東路二段一一二號九樓

林鎰珠 先生

掛號

發文文號：09221251920

局長 蔡練生

依照分層負責規定
授權單位主管決行

第一頁